UNITED STATES PATENT AND TRADEMARK OFFICE

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10/542,102	04/11/2006	Frank Bindel	2345/218	1105

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 March 2010_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-29_ is/are pending in the application.
     4a) Of the above claim(s) _1-10 and 12_ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _11, 13-29_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
         1.☐ Certified copies of the priority documents have been received.
         2.☐ Certified copies of the priority documents have been received in Application No. _____.
         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claims 1-10 and 12 has been canceled.

Claims 11, 16, 17, 19, 22, and 25 have been amended.

Claim 26-29 are new claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant states in claim 26 "transmitting a discrete portion of the data for exchanging via a first network; and, transmitting a remaining portion of the data for exchanging via a second network,

wherein the administrator purposefully effects the transmission of the portions of data for exchanging," however, this discrete portion of data exchanging via a first network and wherein the administrator purposefully effects the transmission of the portions of data for exchanging is not disclosed in the original specification, drawing, and/or claims; therefore, it will not be considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claim 11-21 and 25 are rejected under 35 U.S.C. 103 (a) as being

unpatentable over Lee et al. (US 6909705 B1), Zhang et al. (US 20020054578 A1),

and in view of Crosbie (US 20020035699 A1).

Regarding claim 11. Lee et al. discloses a method for exchanging data using a

wireless connection (title, abstract, col. 1 lines: 15-18, col. 2 lines: 9-14, 38-41,45-67—

col. 7 lines: 2, Lee et al. teaches wireless communication), comprising:

providing a user with at least one portable terminal located in a transmission and

reception range of at least one network (fig. 1, col. 3 lines: 3-30, Lee et al. teaches

Bluetooth-enabled devices communicating within a network);

logging on automatically to establish a connection to the at least one network by the at

least one portable terminal (col. 3 lines: 44-65, Lee et al. teaches that authentication

authorization may be supported by the administrative infrastructure and intelligence for

the Bluetooth network, hence, logging on automatically to at least one network);

However, Lee et al. does not discloses in detail providing a transmission channel

available for the exchanging data within a framework of the connection established;

wherein for the data exchange, the transmission channel is adapted automatically to a

type of the at least one portable terminal and a type of data to be transmitted, by an

administrator to be assigned to the network; nevertheless, Zhang et al. teaches

providing a transmission channel available for data transmission within the connection

established; transmission channel is adapted automatically to a type of the at least one

portable terminal and a type of data to be transmitted by an administrator to be

assigned to the network (title, abstract, fig. 1a-5, ¶: 49-53, 57-59, Zhang et al. teaches

monitoring transmission channels and their quality of service, furthermore, the wireless

host provide type of data to be adapted to users requesting services provided by the

host of the 3G wireless network). Therefore, it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to specifically include

providing a transmission channel for exchanging data of interest within a framework of

the connection established, the transmission channel is adapted automatically to a type

of the at least one portable terminal and a type of data to be transmitted by an

administrator to be assigned to the network, as taught by Zhang et al. for the purposes

of dynamically adaptations in transmissions (abstract). One skilled in the art would be

motivated to make the combination of Lee et al. with that of the teachings of Zhang et

al. to allow mobile devices in short range to communicate in different networks with

different types of wireless transmission characteristics automatically as stated in

references cited.

monitoring a movement of the at least one portable terminal across a boundary of the at

least one network (col. 4 lines: 38-40, Lee et al. teaches handoff between networks

using location data, signal quality or signal strength),

wherein if the movement is to another network, another connection is established to the

another network (fig. 1, col. 4 lines: 38-52, Lee et al. teaches handoff between different

networks).

However, <u>wherein the type of the at least one portable terminal and the type of data to</u>

<u>be transmitted is provided to the administrator via at least one of a predefined user</u>

<u>profile and a message transmitted to the administrator from the at least one portable</u>

<u>terminal;</u> nevertheless, Crosbie teaches the profile defining type of device and other

information (fig. 9, ¶: 64-67, Crosbie teaches mobile devices being identified and

authenticated when session is initiated through gateway server, furthermore, the home

server reports from the gateway server information such as billing, IP address, and

location of the mobile initiating session. fig. 4, ¶: 56, 62, 63, Crosbie teaches device

database wherein the server recognized the unique device identifier and data traffic the

mobile device is connected to or receiving).   Therefore, it would have been obvious to a

person of ordinary skill in the art at the time the invention was made to specifically

include an administrator to determine the type of a terminal and data of a particular user

based on database information after identification determination is made and a

message is sent to a home server about such information, as taught by Crosbie for the

purposes of continuing interrupted information when performing a seamless roaming

handoff (title, abstract) one of ordinary skill in the art would be able to combine the

protocols set up in Crosbie to that in Lee et al. and Zhang et al..

Regarding claim 25. Lee et al. discloses an administrator comprising:

a first interface to an external network (fig. 1, col. 2 lines: 45--col. 3 lines: 2, Lee et al.

teaches first interface to an external network);

a second interface (fig. 1, col. 2 lines: 45--col. 3 lines: 2, Lee et al. teaches second

interface); and

a router module, wherein via the first and second interfaces a radio link suitable for data

transmission is producible to a terminal present in a transmission and a reception range

(col. 3 lines: 66—col. 4 lines: 5, col. 5 lines: 7-10, Lee et al. teaches routing tables for

routing hence router module is present between first and second interfaces), and

wherein the router module determines a type of data waiting for transmission and

establishes a connection corresponding to the type of data to the terminal (col. 4 lines:

5, col. 5 lines: 7-10, Lee et al. teaches that connection through router and routing tables

and other methods and protocols the type of data is transmitted to terminal), the

connection established being optimized in view of at least one of the terminal, costs,

and transmission speed, and wherein the administrator implements a method for

exchanging data using a wireless connection (col. 3 lines: 44-65, Lee et al. teaches

cellular network provides the administrative infrastructure and intelligence for the

Bluetooth network such as authentication, registration, billing, profiling, roaming, etc...

hence, the connection establish being optimized in view of at least one of the terminal,

costs, and transmission speed), including:

providing a user with at least one portable terminal located in a transmission and

reception range of at least one network (fig. 1, col. 3 lines: 3-30, Lee et al. teaches

Bluetooth-enabled devices communicating within a network);

logging on automatically to establish a connection to the at least one network by the at

least one portable terminal (col. 3 lines: 44-65, Lee et al. teaches that authentication

authorization may be supported by the administrative infrastructure and intelligence for

the Bluetooth network, hence, logging on automatically to at least one network);

However, Lee et al. does not discloses in detail providing a transmission channel

available for the exchanging data within a framework of the connection established;

wherein for the data exchange, the transmission channel is adapted automatically to a

type of the at least one portable terminal and a type of data to be transmitted, by an

administrator to be assigned to the network; nevertheless, Zhang et al. teaches

providing a transmission channel available for data transmission within the connection

established; transmission channel is adapted automatically to a type of the at least one

portable terminal and a type of data to be transmitted by an administrator to be

assigned to the network (title, abstract, fig. 1a-5, ¶: 49-53, 57-59, Zhang et al. teaches

monitoring transmission channels and their quality of service, furthermore, the wireless

host provide type of data to be adapted to users requesting services provided by the

host of the 3G wireless network). Therefore, it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to specifically include

providing a transmission channel for exchanging data of interest within a framework of

the connection established, the transmission channel is adapted automatically to a type

of the at least one portable terminal and a type of data to be transmitted by an

administrator to be assigned to the network, as taught by Zhang et al. for the purposes

of dynamically adaptations in transmissions (abstract). One skilled in the art would be

motivated to make the combination of Lee et al. with that of the teachings of Zhang et

al. to allow mobile devices in short range to communicate in different networks with

different types of wireless transmission characteristics automatically as stated in

references cited.

However, wherein the type of the at least one portable terminal and the type of data to

be transmitted is provided to the administrator via at least one of a predefined user

profile and a message transmitted to the administrator from the at least one portable

terminal; nevertheless, Crosbie teaches the profile defining type of device and other

information (fig. 9, ¶: 64-67, Crosbie teaches mobile devices being identified and

authenticated when session is initiated through gateway server, furthermore, the home

server reports from the gateway server information such as billing, IP address, and location of the mobile initiating session. fig. 4, ¶: 56, 62, 63, Crosbie teaches device database wherein the server recognized the unique device identifier and data traffic the mobile device is connected to or receiving).   Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include an administrator to determine the type of a terminal and data of a particular user based on database information after identification determination is made and a message is sent to a home server about such information, as taught by Crosbie for the purposes of continuing interrupted information when performing a seamless roaming handoff (title, abstract) one of ordinary skill in the art would be able to combine the protocols set up in Crosbie to that in Lee et al. and Zhang et al..

Consider claim 13. The method as recited in claim 11, the combination discloses wherein the administrator is a permanently installed terminal (fig. 1c, ¶: 61, Zhang et al. teaches resource management server coupled to wireless network to provide media content requesting users), and the at least one portable terminal gains access to the at least one network which is an external communication network via the administrator (¶: 65-67, Zhang et al. teaches access by mobile to network host to network resources for downloading or streaming data), and any terminal producing access to the administrator does so via a short-range radio communication network (fig. 1, col. 3 lines: 3-30, Lee et al. teaches terminal communicating to BT Hub via short range or Bluetooth-enabled network).

Consider claim 14. The method as recited in claim 11, the combination discloses

further comprising:

adapting automatically a bandwidth and a handling capacity of the transmission channel

to a quantity of data to be transmitted (¶: 71, Zhang et al. teaches different broadband

services that required different amounts of bandwidth and have different priorities by

combination of intelligent admission control, bandwidth reservation and statistical

multiplexing).

Consider claim 15. The method as recited in claim 11, the combination discloses

further comprising:

selecting the transmission channel from the plurality of available transmission, channels

based on at least one of connection costs and handling capacity (col. 1 lines: 63-66, col.

3 lines: 51-65, col. 5 lines: 37-51, Lee et al. teaches selecting correct appropriate

transmission for mobile terminal with network based on several parameters including

that of costs and handling capacity).

Consider claim 16. The method as recited in claim 11, the combination discloses

further comprising:

transmitting information regarding the type of data from the terminal to the administrator

via a <u>header of an email </u>short message sent in advance (col. 1 lines: 63-66, col. 3 lines:

51-65, col. 5 lines: 37-51, Lee et al. teaches selecting correct appropriate transmission

for mobile terminal with network based on several parameters including that of costs

and handling capacity).

Consider claim 17. The method as recited in claim 11, the combination discloses

wherein the administrator itself obtains information regarding the type of data <u>and</u>

<u>bandwidth needs</u> with aid of an analysis of the data waiting for transmission (col. 1 lines:

63-66, col. 3 lines: 51-65, col. 5 lines: 37-51, Lee et al. teaches selecting correct

appropriate transmission for mobile terminal with network based on several parameters

including that data type through HLR or VLR or RNC or BTS).

Consider claim 18. The method as recited in claim 11, the combination discloses

wherein in the course of a connection, a change is automatically carded out between at

least one of the transmission channel and other transmission channels, the

transmission channel and the bandwidth, the bandwidth and other bandwidths,

depending on at least one of requirements and free resources (col. 2 lines: 45-63, Lee

et al. teaches handoff between mobile devices and different networks, hence, change is

automatically done between the transmission channels and other transmission

channels).

Consider claim 19. The method as recited in claim 11, the combination discloses

further comprising:

predefining <u>the</u> user profile in the terminal (col. 3 lines: 51-65, Lee et al. teaches having

terminals user profile through authorization, accounting and authentication or known as

AAA services);

initiating automatically the user profile with a work cycle as soon as the terminal comes

in contact with the administrator (col. 3 lines: 44-65, Lee et al. teaches cellular network

provides the administrative infrastructure and intelligence for the Bluetooth network

such as authentication, registration, billing, profiling, roaming, etc... hence, the

connection establish being optimized in view of at least one of the terminal, costs, and transmission speed),

wherein the user profile includes a prioritization of at least one of data type, bandwidth size needed, and type of portable terminal type, so that based on the transmission channel available the administrator effects the prioritization.

Consider claim 20. The method as recited in claim 11, the combination discloses wherein the transmission channel is adapted automatically to a quantity of data to be transmitted (col. 2 lines: 2-5, 54-63, Lee et al. teaches transmission of data adapted to be relayed effectively among different networks).

Consider claim 21. The method as recited in claim 13, the combination discloses wherein the external communication network is one of Internet and a telephone network, and wherein the short-range radio communication network is at least one of Bluetooth and wireless local area network (WLAN) (col. 2 lines: 64—col. 3 lines: 16, Lee et al. teaches internet and telephone network PSTN and Bluetooth and wireless local loop).

Claims 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (US 6909705 B1), and in view of Crosbie (US 20020035699 A1).

Regarding claim 22. Lee et al. discloses an administrator comprising:

a first interface to an external network (fig. 1, col. 2 lines: 45--col. 3 lines: 2, Lee et al. teaches first interface to an external network);

a second interface (fig. 1, col. 2 lines: 45--col. 3 lines: 2, Lee et al. teaches second interface); and

a router module, wherein via the first and second interfaces a radio link suitable for data

transmission is producible to a terminal present in a transmission and a reception range

(col. 3 lines: 66—col. 4 lines: 5, col. 5 lines: 7-10, Lee et al. teaches routing tables for

routing hence router module is present between first and second interfaces), and

wherein the router module determines a type of data waiting for transmission and

establishes a connection corresponding to the type of data to the terminal (col. 4 lines:

5, col. 5 lines: 7-10, Lee et al. teaches that connection through router and routing tables

and other methods and protocols the type of data is transmitted to terminal), the

connection established being optimized in view of at least one of the terminal, costs,

and transmission speed (col. 3 lines: 44-65, Lee et al. teaches cellular network provides

the administrative infrastructure and intelligence for the Bluetooth network such as

authentication, registration, billing, profiling, roaming, etc... hence, the connection

establish being optimized in view of at least one of the terminal, costs, and transmission

speed).

However, <u>wherein the type of the at least one portable terminal and the type of data to</u>

<u>be transmitted is provided to the administrator via at least one of a predefined user</u>

<u>profile and a message transmitted to the administrator from the at least one portable</u>

<u>terminal;</u> nevertheless, Crosbie teaches the profile defining type of device and other

information (fig. 9, ¶: 64-67, Crosbie teaches mobile devices being identified and

authenticated when session is initiated through gateway server, furthermore, the home

server reports from the gateway server information such as billing, IP address, and

location of the mobile initiating session. fig. 4, ¶: 56, 62, 63, Crosbie teaches device

database wherein the server recognized the unique device identifier and data traffic the

mobile device is connected to or receiving).   Therefore, it would have been obvious to a

person of ordinary skill in the art at the time the invention was made to specifically

include an administrator to determine the type of a terminal and data of a particular user

based on database information after identification determination is made and a

message is sent to a home server about such information, as taught by Crosbie for the

purposes of continuing interrupted information when performing a seamless roaming

handoff (title, abstract) one of ordinary skill in the art would be able to combine the

protocols set up in Crosbie to that in Lee et al. and Zhang et al..

Consider claim 23. The administrator as recited in claim 22, the combination discloses

wherein the external network is at least one of Internet and a telephone network (col. 2

lines: 64—col. 3 lines: 16, Lee et al. teaches internet and telephone network PSTN and

Bluetooth and wireless local loop).

Consider claim 24. The administrator as recited in claim 23, the combination discloses

wherein the radio link is a short-range radio link (col. 2 lines: 64—col. 3 lines: 16, Lee et

al. teaches internet and telephone network PSTN and Bluetooth and wireless local

loop).

For compact prosecution purposes claim 26 is rejected once this is determined to

be not new matter issue, supra.

Consider claim 26. (New) The method of claim 26, further comprising:

transmitting a discrete portion of the data for exchanging via a first network; and,

transmitting a remaining portion of the data for exchanging via a second network,

wherein the administrator purposefully effects the transmission of the portions of data

for exchanging (abstract, ¶: 45, 50-55, Crosbie teaches wherein seamless roaming

between WLAN's (first and second networks) wherein the bandwidth and other

information, which load balancing is done when a newly connection of the mobile device

is made from resulting roaming or seamless handoff).

Consider claim 27. (New) The method of claim 26, wherein the first and second

networks allow for different bandwidths (col. 4 lines: 34-37, Lee et al. teaches different

networks and interactions between them and mobile device when handover happens).

Consider claim 28. (New) The method of claim 11, wherein the transmission channels

are determined for each data to be exchanged to ensure efficient distribution based on

bandwidth requirements for the data (fig. 4, ¶: 56, 62, 63, Crosbie teaches device

database wherein the server recognized the unique device identifier and data traffic the

mobile device is connected to or receiving).

Consider claim 29. (New) The method of claim 11, wherein the data having at least a

predetermined size is automatically transmitted when short range radio communications

is available (¶: 28-29, 38, Crosbie teaches presence within range discovery protocols

when mobile device detects base station and established session based on range and

type of data determined to be transmitted or in transmission).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DIEGO HERRERA whose telephone number is

(571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/LESTER KINCAID/
Supervisory Patent Examiner, Art Unit 2617